Supreme Court, U.S.
FILED

08-13 APR 26 2008

OFFICE OF THE CLERK
William K. Suter, Clerk

In The

Supreme Court of the United States

ALHAJJ MALIKI ALMAHDI

Petitioners,

v.

COMMONWEALTH OF MASSACHUSETTS
CITY OF SPRINGFIELD, DISTRICT ATTORNEY

Respondents.

On Petition for Writ of Certiorari
To The United States Supreme Court

PETITION FOR WRIT OF CERTIORARI

ALHAJJ MALIKI ALMAHDI, PRO SE
228 Locust Street, Apartment 8
Springfield, MA 01108

Pro Se for Petitioner,
Alhajj Maliki Almahdi

QUESTION PRESENTED

Did the Supreme Judicial Court for the Commonwealth of Massachusetts err or abuse its discretion in denying defendant-appellant's request for relief from excessive, unconstitutional bail under the Eighth Amendment of the Constitution.

PARTIES TO THE PROCEEDING

Petitioner,

Defendant-Appellant: Alhajj Maliki Almahdi, *Pro Se*
228 Locust Street, Apartment 8
Springfield, Massachusetts 01108

Respondents,

Plaintiff-Appellee: Commonwealth of Massachusetts

Counsel:

Attorney Richard Morse
Assistant District Attorney
Hampden County Hall of Justice
50 State Street
Springfield, Massachusetts 01103

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CASES

Stack v. Boyle, 342 U.S. 1 (1951) 5,6,7,8

United States v. Salerno, 481 U.S. 739 (1987) 6,7

CONSTITUTIONAL PROVISIONS

Eighth Amendment 1,2,5,6,7,8

OTHER SOURCES

United States Supreme Court Rule, Rule 10 9

CITATIONS FOR OPINIONS BELOW

The opinion of the Supreme Judicial Court for the Commonwealth of Massachusetts denying the Petition for rehearing (App. 1), the final judgement, (App. 2) the order denying the Petitioner's request for bail reduction, (App. 3) were not reported.

BASIS FOR JURISDICTION IN THIS COURT

This honorable Court has jurisdiction over this matter as it involves the Eight Amendment to the U.S. Constitution and the Defendant-Appellant's right to be free from excessive bail. The Supreme Judicial Court for the Commonwealth of Massachusetts denied the defendant-appellant's petition for rehearing on January 31, 2008.

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

This matter is about the Eighth Amendment to the U.S. Constitution which states:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

STATEMENT OF THE CASE

This case arises out of the arrest of the Petitioner, Alhajj Maliki Almahdi, on August 23, 2006. The Petitioner was arraigned and placed on $15,000.00 cash bail or $150,000.00 surety. After the bail was set, the Petitioner requested a bail review, which was denied in the District Court of Springfield, Massachusetts a week later. A Grand Jury was then convened and the Petitioner was indicted on October 12, 2006. (App. 4-5). Bail was again set at $15,000.00 cash or $150,000.00 surety at the arraignment on October 25, 2006. The Petitioner again requested bail review, which was again denied, on November 14, 2006. The Petitioner then appealed to the Supreme Judicial Court of Massachusetts for relief claiming excessive, unconstitutional bail. The Petition was denied on January 30, 2007 (Greaney, J.) (App. 3). The Petitioner then appealed the Judgement of the single justice to the full Court. The Petitioner's appeal to the full Supreme Judicial Court was dismissed on November 9, 2007. (App. 2). The Petitioner then requested a rehearing and this rehearing was denied on January 31, 2008 (App. 1) making it a

final judgment. The Petitioner is now requesting a Writ of Certiorari to the United States Supreme Court.

STATEMENT OF THE FACTS

The Petitioner, Alhajj Maliki Almahdi (hereinafter "Petitioner"), was arrested on August 23, 2006 for resisting arrest from a Court Officer, threats to a Court Officer and disturbing Court procedure. The following day the Appellant was arraigned and placed under $15,000.00 cash bail or $150,000.00 surety. The Appellant is a retired and disabled correctional officer. He has resided in Springfield, Massachusetts his entire life and is well known to the District and Superior Court in Springfield, Massachusetts, as he has been involved in numerous legal proceedings over the course of the last 40 years. The Appellant has never been convicted of a felony and has never missed a scheduled court appearance to his knowledge.

After the bail was set, Appellant requested a bail review, which was denied a week later. After a Grand Jury was convened, the Appellant was indicted on October 12, 2006 (App. 4-5). At the arraignment on October 25, 2006 bail was again set at $15,000.00 cash or

$150,000.00 surety without prejudice. The Appellant again requested bail review, which was again denied on November 14, 2006. The Appellant then Petitioned the Supreme Judicial Court of Massachusetts for relief claiming excessive, unconstitutional bail. The Petition was denied on January 30, 2007 (Greaney, J.) (App. 3). The Appellant then appealed the judgment of the single justice to the full court. The Appellant was held in jail from August 23, 2006 through May 3, 2007 at which time he was finally released on his own personal recognizance. The charges against the Petitioner were later dismissed by the Court.

The Appellant's appeal to the full Judicial Court was dismissed on November 9, 2007. The Appellant then requested a rehearing and this rehearing was denied on January 31, 2008 (App. 1), making it a final judgment. The Petitioner now petitions for a writ of certiorari to the United States Supreme Court.

REASONS FOR GRANTING CERTIORARI

The Massachusetts Supreme Judicial Court, a state court of last resort, has decided an important question of federal law in a way that conflicts with the United States Supreme Court.

The Eighth Amendment of our Constitution provides:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The reason for this is that defendants who are not released on bail have greater difficulty preparing their defense. Excessive bail also has the effect of punishing the defendant with imprisonment for the duration up until the time of his trial and acquittal. For this reason, decisions and review regarding bail should not be made lightly. Stack v. Boyle, 342 U.S. 1, 4-6, (1951). Bail should be extremely high, and sometimes denied if a defendant is being charged with an extremely serious offense and poses either a flight risk or serious potential danger to the community. However, notwithstanding that situation, in the great majority of criminal matters bail should be available and affordable. In the instant case, the bail was set at $15,000.00 cash or $150,000.00 surety.

This bail was set after the Appellant was disruptive in the Courtroom. These were fairly minor criminal charges. As the Appellant was not a danger to the community and did not pose a risk of flight, it is clear that the bail was excessive. Bail is "excessive" in violation of the Eighth Amendment when it is set at a figure higher than an amount reasonably calculated to ensure the claimed governmental interest. Stack v. Boyle, 342 U.S. 1, 4 through 6 (1951). If the Commonwealth's only claimed interest was to guarantee that the Appellant would stand trial and submit to a sentence if found guilty, then the bail should have been set at a sum that was designed to ensure that goal and no more. United States v. Salerno, 481 U.S. at 754.

As a result of the excessive bail in violation of the Eighth Amendment, the Appellant was incarcerated from August 23, 2006 through May 7, 2007, a period of 255 days. Ultimately, all the charges against the Appellant were dismissed by the Court.

LEGAL ARGUMENT

The Massachusetts Supreme Judicial Court, a state court of last resort, has decided an important question of federal law in a way that conflicts with the United States Supreme Court.

The Eighth Amendment of our Constitution provides:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The reason for this is that defendants who are not released on bail have greater difficulty preparing their defense. Excessive bail also has the effect of punishing the defendant with imprisonment for the duration up until the time of his trial and acquittal. For this reason, decisions and review regarding bail should not be made lightly. Stack v. Boyle, 342 U.S. 1, 4-6, (1951). Bail should be extremely high, and sometimes denied if a defendant is being charged with an extremely serious offense and poses either a flight risk or serious potential danger to the community. However, notwithstanding that situation, in the great majority of criminal matters bail should be available and affordable. In the instant case,

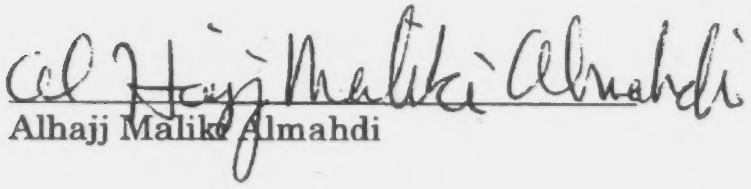
the bail was set at $15,000.00 cash or $150,000.00 surety. This bail was set after the Appellant was disruptive in the Courtroom. These were fairly minor criminal charges. As the Appellant was not a danger to the community and did not pose a risk of flight, it is clear that the bail was excessive. Bail is "excessive" in violation of the Eighth Amendment when it is set at a figure higher than an amount reasonably calculated to ensure the claimed governmental interest. Stack v. Boyle, 342 U.S. 1, 4 through 6 (1951). If the Commonwealth's only claimed interest was to guarantee that the Appellant would stand trial and submit to a sentence if found guilty, then the bail should have been set at a sum that was designed to ensure that goal and no more. United States v. Salerno, 481 U.S. at 754.

As a result of the excessive bail in violation of the Eighth Amendment, the Appellant was incarcerated from August 23, 2006 through May 7, 2007, a period of 255 days. Ultimately, all the charges against the Appellant were dismissed by the Court.

CONCLUSION

For all the foregoing reasons, the Petitioner submits that the decision of the Supreme Judicial Court of Massachusetts is in conflict with the decision of the United States Supreme Court, constitutes a departure from the accepted and usual course of judicial proceedings, and involves important questions of federal law that should be settled by this Court. Supreme Court Rule 10. Accordingly, Petitioner requests that this Court grant the petition for a writ of certiorari.

Respectfully submitted,
Alhajj Maliki Almahdi, Pro Se



Alhajj Maliki Almahdi

Appendix 1

The Commonwealth of Massachusetts
Supreme Judicial Court
For Suffolk County
John Adams Courthouse
One Pemberton Square, Suite 1300
Boston, Massachusetts 02108-1707
www.sjccountyclerk.com

January 30, 2007

Al Hajj Maliki Almahdi
629 Randall Road
Ludlow, MA 01056

RE: No. SJ-2007-0014

COMMONWEALTH v. AL HAJJ MALIKI ALMAHDI

Hampden Superior Court
No. 2006-1250

NOTICE OF DOCKET ENTRY

You are hereby notified that on January 30, 2007, the following was entered on the docket of the above referenced case:

JUDGMENT: denying relief under c. 211, s.3 without a hearing. (Greaney, J.)

Maura S. Doyle,
Clerk

To: Al Hajj Maliki Almahdi
Jane Davidson Montori, Assistant District Attorney
Richard Morse, Assistant District Attorney
Atty. Vincent A. Bongiorni

Appendix 2

NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, Pemberton Square, Suite 2500, Boston, MA 02108-1750; (617) 557-1030; SJCReporter @sjc.state.ma.us

SJC-09958

AL HAJJ MALIKI ALMAHDI vs. COMMONWEALTH.

November 9, 2007

Moot Question. Bail.

Al Hajj Maliki Almahdi (defendant) appeals from a judgment of the county court denying his petition under G. L. c. 211, § 3, in which he sought bail review. The Commonwealth has moved to dismiss the appeal as moot. We agree with the Commonwealth.

After the single justice denied relief, the defendant was released on personal recognizance. The charges against him were subsequently disposed of, one by a nolle prosequi and the other by dismissal after a continuance without a finding. G. L. c. 276, § 87. This moots his claim for bail review. See Allen v. Commonwealth, 449 Mass. 1020, 1020 (2007), citing LaChance v. Commonwealth, 437 Mass. 1013 (2002). To the extent that the defendant claims he is entitled to compensation for time spent in confinement, that claim is not properly before us and we express no view on its merits. A proper forum for such a claim would be a civil action commenced in the trial court.

Appeal dismissed.

The case was submitted on briefs.

Al Hajj Maliki Almahdi, pro se.

Jane Davidson Montori, Assistant District Attorney, for the Commonwealth.

Appendix 3

Supreme Judicial Court for the Commonwealth of Massachusetts
John Adams Courthouse
One Pemberton Square, Suite 1300
Boston, Massachusetts 02108-1707
Telephone 617-557-1020, Fax 617-557-1145

Al Hajj Maliki Almahdi
228 Locust Street
Apt. 8
Springfield, MA 01108

RE: No. SJ-09958

AL HAJJ MALIKI ALMAHDI
vs.
COMMONWEALTH

NOTICE OF DENIAL OF PETITION FOR REHEARING

The Petition for Rehearing filed in the above captioned case has been considered by the Court and is denied.

Susan Mellen, Clerk

Dated: January 31, 2008

To: Jane Davidson Montori, A.D.A.
Richard Morse, A.D.A.
Al Hajj Maliki Almahdi
S.J.C. for Suffolk County

Appendix 4

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS **SUPERIOR COURT**
INDICTMENT NO: 06-1250-1

COMMONWEALTH
VS.
ALHAJJMALIKI ALMAHDI

INDICTMENT
DISRUPTION OF COURT PROCEEDINGS
GENERAL LAWS CHAPTER 268, SECTION 13C

At the Superior Court, begun and holden at Springfield, within and for the County of Hampden, on the first Tuesday of October 2006. The GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

ALHAJJMALIKI ALMAHDI

defendant herein, of Springfield in the County of Hampden, on or about August 23, 2006, at SPRINGFIELD in the County of Hampden, did cause or actively participate in the willful disruption of proceedings of any court of the commonwealth, in violation of General Laws chapter 268, section 13C.

A TRUE BILL

Foreman of the Grand Jury — Asst District Attorney

RETURN

HAMPDEN, ss On this 16th day of Oct. , 2006, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST: Cheryl A. Causbroom Assistant Clerk

Appendix 5

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS **SUPERIOR COURT**
INDICTMENT NO: 06-1250-2

COMMONWEALTH
VS.
ALHAJJMALIKI ALMAHDI

INDICTMENT
ASSAULT & BATTERY
GENERAL LAWS CHAPTER 265, SECTION 13A

At the Superior Court, begun and holden at Springfield, within and for the County of Hampden, on the first Tuesday of October 2006. The GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

ALHAJJMALIKI ALMAHDI

defendant herein, of Springfield in the County of Hampden, on or about August 23, 2006, at SPRINGFIELD in the County of Hampden, did assault and beat Bruce Mullins.

A TRUE BILL

Foreman of the Grand Jury

Asst District Attorney

RETURN

HAMPDEN, ss On this 4th day of Oct. , 2006, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST: Assistant Clerk